United States Court of Appeals
FOR THE EIGHTH CIRCUIT

Nos. 00-1453/00-2575

United States of America,	*	
	*	
Appellee,	*	
	*	
v.	*	Appeals from the United States
	*	District Court for the
Michael Grady,	*	Eastern District of Missouri
	*	
Appellant.	*	[UNPUBLISHED]

Submitted: November 27, 2000

Filed: December 4, 2000

Before McMILLIAN, BOWMAN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Michael Grady appeals from the final judgment entered in the District Court[1] for the Eastern District of Missouri upon his guilty plea to a charge of conspiring to possess heroin with intent to distribute, in violation of 21 U.S.C. § 846. The district court sentenced appellant to 112 months imprisonment and five years supervised release. For reversal, appellant argues in appeal No. 00-1453 that the indictment was

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[1]The Honorable Stephen N. Limbaugh, United States District Judge for the Eastern District of Missouri.

insufficient under Apprendi v. New Jersey, 120 S. Ct. 2348 (2000) (Apprendi), because it omitted drug quantity, an element of the offense; and in appeal No. 00-2575, he contends that the district court erroneously denied his motion to include grand jury minutes in the record on appeal. In appeal No. 00-2575, counsel has moved to withdraw pursuant to Anders v. California, 386 U.S. 738 (1967).

We conclude that, because Grady's 112-month sentence does not exceed the twenty-year statutory maximum prison term for a non-quantity-based drug offense, it does not violate Apprendi. See United States v. Aguayo-Delgado, 220 F.3d 926, 934 (8th Cir. 2000) (sentences "within the statutory range authorized by § 841(b)(1)(C) without reference to drug quantity, are permissible under Apprendi . . . even where the drug quantity was not charged in the indictment or found by the jury to have been beyond a reasonable doubt"), cert. denied, 2000 WL 1634209 (U.S. Nov. 27, 2000) (No. 00-6746). We also conclude that the district court did not abuse its discretion by denying Grady's motion to include grand jury minutes in the record on appeal, because his argument--that they might support a claim of ineffective assistance of trial counsel by showing what testimony could have been expected at trial--did not demonstrate a particularized need sufficient to require disclosure. See United States v. Martin, 59 F.3d 767, 771 (8th Cir. 1995) (ineffective-assistance claims are ordinarily not considered on direct appeal); United States v. Broyles, 37 F.3d 1314, 1318 (8th Cir. 1994) (abuse-of-discretion standard of review; movant must show particularized need for disclosure of minutes), cert. denied, 514 U.S. 1056 (1995).

Having reviewed the record independently pursuant to Penson v. Ohio, 488 U.S. 75 (1988), we have found no non-frivolous issues for appeal. Accordingly, we affirm the judgment of the district court, and we deny counsel's motion to withdraw in appeal No. 00-2575. Grady's request to file a pro se supplemental brief is granted, and the brief he tendered has been considered.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.